

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HODELL-NATCO INDUSTRIES, INC.,)	CASE NO. 1:08-CV-2755
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	MOTION FOR LEAVE TO PRESENT
)	REMOTE TRIAL TESTIMONY OR, IN THE
SAP AMERICA, INC., et al.)	ALTERNATIVE, MOTION FOR LEAVE TO
)	CONDUCT TRIAL DEPOSITIONS
Defendants.)	

Plaintiff Hodell-Natco Industries, Inc. (“Hodell”), through undersigned counsel and pursuant to the Court’s Trial Order filed May 12, 2015 [ECF #312 at p. 6], moves the Court for leave to present the trial testimony of certain key witnesses by remote video transmission. As more fully explained in the attached Memorandum in Support, two central witnesses to this case—Dale Van Leeuwen and Geoffrey Ashley – reside outside the Court’s subpoena power and thus cannot be compelled to appear at trial. Mr. Van Leeuwen is one of the owners of Defendants LSi-Lowery Systems, Inc. and The IBIS Group, Inc. and resides in Illinois. Mr. Ashley is a former SAP employee and resides in New Hampshire. Hodell has attempted to secure their cooperation to appear voluntarily at trial but has been unsuccessful. The live trial testimony of these witnesses is of paramount importance to Hodell, as they were two of the key individuals responsible for selling the failed SAP Business One installation to Hodell.

Prior to the transfer of this case, Judge Wells ruled on the record that good cause existed

to permit remote testimony. [ECF #298: Feb. 18, 2015 Tr. at 13].¹ There are also several other key witnesses who are outside the Court's subpoena power but have agreed to appear at trial. These witnesses are Dan Lowery (the owner of Defendant LSi-Lowery Systems, Inc.), Daniel Kraus (a former SAP employee), Ralf Mehnert-Meland (a former SAP employee), Edward Neveux (a current SAP employee) and Paul Killingsworth (a current SAP employee). SAP previously represented to Judge Wells that Messrs. Kraus, Mehnert-Meland, Neveux and Killingsworth would appear at trial to testify. Hodell has requested that SAP confirm this is still the case, but as of the filing of this Motion SAP has not responded to this request. In the event SAP's representation to the Court does not still hold, Hodell intends to present their testimony by remote video transmission as well.

Hodell agrees to bear the responsibility of securing these witnesses' appearance at the remote site, and further, agrees to be responsible for retaining the vendor to establish the remote video feed. The presentation of these witnesses' testimony live at trial, rather than through spliced together deposition references, is supported by the interests of justice.

In the event the Court elects not to permit remote testimony, Hodell requests leave to conduct the trial depositions of Messrs. Van Leeuwen and Ashley, as well as any witness SAP no longer intends to have appear live.

A Memorandum in Support of this Motion is attached hereto and incorporated herein.

¹ Cites excerpts from the transcript are attached as Exhibit 1. The discussion on the record as reflected in this transcript refers to Mr. Ashley's testimony being presented by remote video transmission. However, Hodell later clarified that it wished to present both Mr. Ashley's and Mr. Van Leeuwen's testimony by remote video transmission.

Dated: May 13, 2015

Respectfully submitted,

/s/ P. Wesley Lambert

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CERTIFICATE OF SERVICE

The undersigned certifies that on May 13, 2015, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access the document through the Court's electronic filing system.

/s/ P. Wesley Lambert
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